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7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-554*

13 **CAROL LILLIAN BARKER**
400 White Oak Drive
Santa Rosa, CA 95409

ACCUSATION

14 **Registered Nursing License No. 344485**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about April 30, 1982, the Board of Registered Nursing issued Registered
23 Nursing License Number 344485 to Carol Lillian Barker (Respondent). The Registered Nursing
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on December 31, 2013, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
7 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
8 licensee or to render a decision imposing discipline on the license.

9 6. Section 118, subdivision (b), of the Code provides that the expiration of a license
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
11 within which the license may be renewed, restored, reissued or reinstated.

12 STATUTORY PROVISIONS

13 7. Section 2761 of the Code states:

14 "The board may take disciplinary action against a certified or licensed nurse or deny an
15 application for a certificate or license for any of the following:

16 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

17 ...

18 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
19 functions, and duties of a registered nurse, in which event the record of the conviction shall be
20 conclusive evidence thereof.

21 ..."

22 8. Section 2762 of the Code states:

23 "In addition to other acts constituting unprofessional conduct within the meaning of this
24 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
25 chapter to do any of the following:

26 ...

27 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
28 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her
3 ability to conduct with safety to the public the practice authorized by his or her license.

4 . . ."

5 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
6 revoke a license on the ground that the licensee has been convicted of a crime substantially
7 related to the qualifications, functions, or duties of the business or profession for which the
8 license was issued.

9 COST RECOVERY

10 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
14 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
15 included in a stipulated settlement.

16 DRUGS

17 11. Hydrocodone is a Schedule II controlled substance as designated by Health and
18 Safety Code section 11055(b)(1)(I) and is a dangerous drug per Code section 4022, used for
19 moderate to severe pain relief.

20 FIRST CAUSE FOR DISCIPLINE

21 (CRIMINAL CONVICTION)

22 12. Respondent is subject to disciplinary action under sections 2761(a), 2761(f), and/or
23 490 in that on or about June 10, 2005, in a criminal proceeding entitled *The People of the State of*
24 *California v. Carol Lillian Barker* in Sonoma County Superior Court, Case Number SCR-
25 452399, Respondent was convicted by her plea of no contest of violating Penal Code section
26 415(2) (maliciously and willfully disturb another person by loud and unreasonable noise).
27 Respondent was sentenced to probation for 12 months, and ordered to serve 23 days in jail. The
28 circumstances of the conviction are that on or about October 30, 2004, Respondent was arrested

1 after making death threats to her neighbor. Respondent resisted arrest and threatened the
2 arresting officer, telling him that she was going to kick him in the balls, and that she was going to
3 run him down with her car.

4 SECOND CAUSE FOR DISCIPLINE

5 (USING ALCOHOL IN A MANNER DANGEROUS TO SELF OR OTHERS)

6 13. Respondent is subject to disciplinary action under sections 2761(a) and/or 2762(b) in
7 that on or about February 5, 2012, Respondent was arrested for being drunk in public. She was
8 found by police at 2:15 a.m. standing next to her vehicle on Geyserville Avenue in Santa Rosa.
9 Respondent advised the officers that her car would not start and she had no way of contacting
10 anyone for help. Respondent's blood alcohol level was .15%. The arresting officers determined
11 that Respondent's car would start, and that she had a working cell phone in the car. They placed
12 Respondent under arrest and she became belligerent and verbally abusive. Respondent was in
13 possession of a Hydrocodone/Acetaminophen tablet for which she did not have a prescription.

14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Registered Nursing issue a decision:

- 17 1. Revoking or suspending Registered Nursing License Number 344485, issued to Carol
18 Lillian Barker;
- 19 2. Ordering Carol Lillian Barker to pay the Board of Registered Nursing the reasonable
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions
21 Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: JANUARY 17, 2013

24 *Louise R. Bailey*
25 LOUISE R. BAILEY, M.ED., RN
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant

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